



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 13

**LADAS & PARRY
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NEW YORK, NY 10023**

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MAY 31 2005

Director's Office
Office of Patent Publication

In re Application of
Laurent De Volder :
Application No. 10/018,302 : **DECISION ON PETITION**
Filed: November 8, 2002 :
Attorney Docket No. U 013688-5 :
:

This is a response to the Reply To Decision On Petition, received in the United States Patent and Trademark Office (USPTO) on December 13, 2004, which is being treated as a Request for Reconsideration Of Petition Decision. The deciding official in the Office of Patent Publications received the application file and the enclosed Reply To Decision On Petition (Reply) on May 23, 2005.

The request is **DENIED**.

Petitioner argues that the Decision on Petition of 2004 is incorrect October 10, 2003.

The decision to dismiss the petition received October 23, 2003 was based on the applicant's failure to satisfy the requirement under 37 CFR 1.8(b)(2) and (3) in that, (2) copies of the previously mailed correspondence did not include a certificate of mailing, and therefore, does not receive the benefits of 37 CFR 1.8, and (3) an attesting statement was not provided.

Patent rules under 37 CFR § 1.8 ii states in part: ...The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. *See 37 CFR §1.8 Certificate of mailing or transmission*

While the Office acknowledges a Certificate Of Mailing /Transmission (37 CFR 1.8a) on the Letter Accompanying Amendment After Allowance and the Amendment After Allowance — copies were submitted with the petition received October 23, 2003 — they were not considered as acceptable under 37 CFR 1.8 because they were not properly executed in that a signature was not provided.

The holding of abandonment cannot be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). Forms are available at USPTO website <http://www.uspto.gov>

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable:
and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Commissioner for Patents
 P O Box 1450
 Mail Stop Petitions
 Alexandria, VA 22313-1450

Or

The Office Of Patent Legal Administration (OPLA) at 571-272-7701 to explain the US patent law and Office policies and procedures in regards to this decision.

Thomas E. Hawkins

Thomas E. Hawkins
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Office of the Director
Office of Patent Publication